

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

WEPAY GLOBAL PAYMENTS, LLC,
Plaintiff

-vs-

PAYPAL, INC.,
Defendant

§
§
§
§
§
§

Civil Action No.: 6:21-cv-01094-ADA

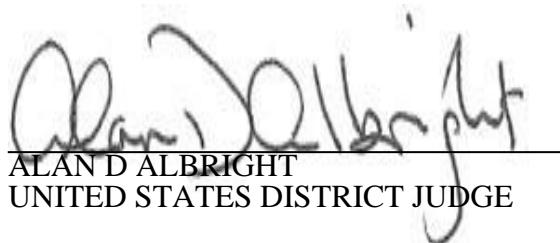
JURY TRIAL DEMANDED

**ORDER DENYING DEFENDANT PAYPAL'S RULE 12(b)(6) MOTION TO DISMISS
FOR LACK OF ORNAMENTATION AND LACK OF ORIGINALITY**

Came on for consideration Defendant PayPal, Inc.'s Motion to Dismiss for Lack of Ornamentation and Lack of Originality. ECF No. 7. The Court, having considered the briefing, held a hearing on March 21, 2022. At the beginning of the hearing, the Court noted that it would deny Defendant's Motion to Dismiss. Without addressing the merits of Defendant's arguments, the Court finds that a Rule 12(b)(6) motion is not the proper vehicle to assess Defendant's arguments. *See Hall v. Bed Bath & Beyond, Inc.*, 705 F.3d 1357, 1362 (Fed. Cir. 2013) ("The district court stated that the complaint should have included answers to questions such as: 'What is it about Plaintiff's towel that he claims is new, original and ornamental, meriting the protection of a design patent?' The Federal Rules, and the Court in *Twombly* and *Iqbal*, do not so require. In *Twombly* the Court stated that 'Federal Rule of Civil Procedure 8(a)(2) requires only a short and plain statement of the claim showing that the pleader is entitled to relief, in order to give the defendant fair notice of what the ... claim is and the grounds upon which it rests.' Here the defendants never stated that they were not apprised of Hall's infringement claim and its grounds.") (internal quotation marks and citations omitted).

Defendant PayPal, Inc. makes similar arguments and requests the Court make the same inquiries. The cases cited by PayPal, Inc. are unavailing under a rule 12(b)(6) standard. Many of the cited cases are of Rule 12(c) posture or present distinct facts. Thus, the Court **DENIES** Defendant's Rule 12(b)(6) Motion to Dismiss (ECF No. 7) and grants leave for Defendant PayPal, Inc. to file a Rule 56 Motion for Summary Judgment or Rule 12(c) Motion for Judgment on the Pleadings.

SIGNED this 9th day of June, 2022.



ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE